



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3924

Introduced 1/21/2022, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

5 ILCS 375/6.11
55 ILCS 5/5-1069.3
65 ILCS 5/10-4-2.3
105 ILCS 5/10-22.3f
215 ILCS 5/356z.26a new
215 ILCS 125/5-3 from Ch. 111 1/2, par. 1411.2
215 ILCS 165/10 from Ch. 32, par. 604

Amends the Illinois Insurance Code. Provides that a health benefit plan amended, delivered, issued, or renewed on or after January 1, 2023 that provides prescription drug coverage or its contracted pharmacy benefit manager shall not engage in or require an enrollee to engage in specified prohibited acts. Provides that a clinician-administered drug supplied shall meet the supply chain security controls and chain of distribution set by the federal Drug Supply Chain Security Act. Provides that the Department of Insurance may adopt rules as necessary to implement the provisions. Defines terms. Makes conforming changes in the State Employees Group Insurance Act of 1971, the Counties Code, the Illinois Municipal Code, the School Code, the Health Maintenance Organization, and the Voluntary Health Services Plans Act.

LRB102 24355 BMS 33589 b

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Employees Group Insurance Act of 1971
5 is amended by changing Section 6.11 as follows:

6 (5 ILCS 375/6.11)

7 Sec. 6.11. Required health benefits; Illinois Insurance
8 Code requirements. The program of health benefits shall
9 provide the post-mastectomy care benefits required to be
10 covered by a policy of accident and health insurance under
11 Section 356t of the Illinois Insurance Code. The program of
12 health benefits shall provide the coverage required under
13 Sections 356g, 356g.5, 356g.5-1, 356m, 356q, 356u, 356w, 356x,
14 356z.2, 356z.4, 356z.4a, 356z.6, 356z.8, 356z.9, 356z.10,
15 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17, 356z.22,
16 356z.25, 356z.26, 356z.26a, 356z.29, 356z.30a, 356z.32,
17 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47,
18 and 356z.51 ~~and 356z.43~~ of the Illinois Insurance Code. The
19 program of health benefits must comply with Sections 155.22a,
20 155.37, 355b, 356z.19, 370c, and 370c.1 and Article XXXIIB of
21 the Illinois Insurance Code. The Department of Insurance shall
22 enforce the requirements of this Section with respect to
23 Sections 370c and 370c.1 of the Illinois Insurance Code; all

1 other requirements of this Section shall be enforced by the
2 Department of Central Management Services.

3 Rulemaking authority to implement Public Act 95-1045, if
4 any, is conditioned on the rules being adopted in accordance
5 with all provisions of the Illinois Administrative Procedure
6 Act and all rules and procedures of the Joint Committee on
7 Administrative Rules; any purported rule not so adopted, for
8 whatever reason, is unauthorized.

9 (Source: P.A. 101-13, eff. 6-12-19; 101-281, eff. 1-1-20;
10 101-393, eff. 1-1-20; 101-452, eff. 1-1-20; 101-461, eff.
11 1-1-20; 101-625, eff. 1-1-21; 102-30, eff. 1-1-22; 102-103,
12 eff. 1-1-22; 102-203, eff. 1-1-22; 102-306, eff. 1-1-22;
13 102-642, eff. 1-1-22; 102-665, eff. 10-8-21; revised
14 10-26-21.)

15 Section 10. The Counties Code is amended by changing
16 Section 5-1069.3 as follows:

17 (55 ILCS 5/5-1069.3)

18 Sec. 5-1069.3. Required health benefits. If a county,
19 including a home rule county, is a self-insurer for purposes
20 of providing health insurance coverage for its employees, the
21 coverage shall include coverage for the post-mastectomy care
22 benefits required to be covered by a policy of accident and
23 health insurance under Section 356t and the coverage required
24 under Sections 356g, 356g.5, 356g.5-1, 356q, 356u, 356w, 356x,

1 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
2 356z.14, 356z.15, 356z.22, 356z.25, 356z.26, 356z.26a,
3 356z.29, 356z.30a, 356z.32, 356z.33, 356z.36, 356z.40,
4 356z.41, 356z.45, 356z.46, 356z.47, 356z.48, and 356z.51 ~~and~~
5 ~~356z.43~~ of the Illinois Insurance Code. The coverage shall
6 comply with Sections 155.22a, 355b, 356z.19, and 370c of the
7 Illinois Insurance Code. The Department of Insurance shall
8 enforce the requirements of this Section. The requirement that
9 health benefits be covered as provided in this Section is an
10 exclusive power and function of the State and is a denial and
11 limitation under Article VII, Section 6, subsection (h) of the
12 Illinois Constitution. A home rule county to which this
13 Section applies must comply with every provision of this
14 Section.

15 Rulemaking authority to implement Public Act 95-1045, if
16 any, is conditioned on the rules being adopted in accordance
17 with all provisions of the Illinois Administrative Procedure
18 Act and all rules and procedures of the Joint Committee on
19 Administrative Rules; any purported rule not so adopted, for
20 whatever reason, is unauthorized.

21 (Source: P.A. 101-81, eff. 7-12-19; 101-281, eff. 1-1-20;
22 101-393, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625, eff.
23 1-1-21; 102-30, eff. 1-1-22; 102-103, eff. 1-1-22; 102-203,
24 eff. 1-1-22; 102-306, eff. 1-1-22; 102-443, eff. 1-1-22;
25 102-642, eff. 1-1-22; 102-665, eff. 10-8-21; revised
26 10-26-21.)

1 Section 15. The Illinois Municipal Code is amended by
2 changing Section 10-4-2.3 as follows:

3 (65 ILCS 5/10-4-2.3)

4 Sec. 10-4-2.3. Required health benefits. If a
5 municipality, including a home rule municipality, is a
6 self-insurer for purposes of providing health insurance
7 coverage for its employees, the coverage shall include
8 coverage for the post-mastectomy care benefits required to be
9 covered by a policy of accident and health insurance under
10 Section 356t and the coverage required under Sections 356g,
11 356g.5, 356g.5-1, 356q, 356u, 356w, 356x, 356z.6, 356z.8,
12 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15,
13 356z.22, 356z.25, 356z.26, 356z.26a, 356z.29, 356z.30a,
14 356z.32, 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46,
15 356z.47, 356z.48, and 356z.51 ~~and 356z.43~~ of the Illinois
16 Insurance Code. The coverage shall comply with Sections
17 155.22a, 355b, 356z.19, and 370c of the Illinois Insurance
18 Code. The Department of Insurance shall enforce the
19 requirements of this Section. The requirement that health
20 benefits be covered as provided in this is an exclusive power
21 and function of the State and is a denial and limitation under
22 Article VII, Section 6, subsection (h) of the Illinois
23 Constitution. A home rule municipality to which this Section
24 applies must comply with every provision of this Section.

1 Rulemaking authority to implement Public Act 95-1045, if
2 any, is conditioned on the rules being adopted in accordance
3 with all provisions of the Illinois Administrative Procedure
4 Act and all rules and procedures of the Joint Committee on
5 Administrative Rules; any purported rule not so adopted, for
6 whatever reason, is unauthorized.

7 (Source: P.A. 101-81, eff. 7-12-19; 101-281, eff. 1-1-20;
8 101-393, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625, eff.
9 1-1-21; 102-30, eff. 1-1-22; 102-103, eff. 1-1-22; 102-203,
10 eff. 1-1-22; 102-306, eff. 1-1-22; 102-443, eff. 1-1-22;
11 102-642, eff. 1-1-22; 102-665, eff. 10-8-21; revised
12 10-26-21.)

13 Section 20. The School Code is amended by changing Section
14 10-22.3f as follows:

15 (105 ILCS 5/10-22.3f)

16 Sec. 10-22.3f. Required health benefits. Insurance
17 protection and benefits for employees shall provide the
18 post-mastectomy care benefits required to be covered by a
19 policy of accident and health insurance under Section 356t and
20 the coverage required under Sections 356g, 356g.5, 356g.5-1,
21 356q, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.11,
22 356z.12, 356z.13, 356z.14, 356z.15, 356z.22, 356z.25, 356z.26,
23 356z.26a, 356z.29, 356z.30a, 356z.32, 356z.33, 356z.36,
24 356z.40, 356z.41, 356z.45, 356z.46, 356z.47, and 356z.51 and

1 ~~356z.43~~ of the Illinois Insurance Code. Insurance policies
2 shall comply with Section 356z.19 of the Illinois Insurance
3 Code. The coverage shall comply with Sections 155.22a, 355b,
4 and 370c of the Illinois Insurance Code. The Department of
5 Insurance shall enforce the requirements of this Section.

6 Rulemaking authority to implement Public Act 95-1045, if
7 any, is conditioned on the rules being adopted in accordance
8 with all provisions of the Illinois Administrative Procedure
9 Act and all rules and procedures of the Joint Committee on
10 Administrative Rules; any purported rule not so adopted, for
11 whatever reason, is unauthorized.

12 (Source: P.A. 101-81, eff. 7-12-19; 101-281, eff. 1-1-20;
13 101-393, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625, eff.
14 1-1-21; 102-30, eff. 1-1-22; 102-103, eff. 1-1-22; 102-203,
15 eff. 1-1-22; 102-306, eff. 1-1-22; 102-642, eff. 1-1-22;
16 102-665, eff. 10-8-21; revised 10-27-21.)

17 Section 25. The Illinois Insurance Code is amended by
18 adding Section 356z.26a as follows:

19 (215 ILCS 5/356z.26a new)

20 Sec. 356z.26a. Clinician-administered drugs.

21 (a) As used in this Section:

22 "Clinician-administered drug" means a drug administered
23 pursuant to a valid prescription, other than a vaccine, that
24 cannot be reasonably self-administered by the patient or an

1 individual assisting the patient with self-administration and
2 is typically administered by a provider in an outpatient
3 hospital, physician's office, ambulatory infusion site, or
4 other clinical setting.

5 "Health benefit plan" means an individual or group policy
6 of accident or health insurance, health care plan, or other
7 hospital or medical policy, certificate, or contract.

8 "Health care plan" has the meaning given to that term in
9 Section 1-2 of the Health Maintenance Organization Act.

10 "Health care plan" does not include a managed care
11 organization that provides, arranges, or reimburses for the
12 delivery of health care services to individuals who are
13 enrolled in medical assistance under the Illinois Public Aid
14 Code or under the Children's Health Insurance Program Act.

15 "Pharmacy" has the meaning given to that term in Section 3
16 of the Pharmacy Practice Act.

17 "Provider" has the meaning given to that term in Section
18 370g.

19 "Site of service" means the physical location where a
20 clinician-administered drug is administered, including, but
21 not limited to, an outpatient hospital, physician's office,
22 ambulatory infusion site, home-based site, or other setting.

23 (b) To ensure access to safe and effective drug therapies,
24 a health benefit plan amended, delivered, issued, or renewed
25 on or after January 1, 2023 that provides prescription drug
26 coverage or its contracted pharmacy benefit manager shall not:

1 (1) require an enrollee to obtain a covered
2 clinician-administered drug from a pharmacy selected by
3 the health benefit plan or pharmacy benefit manager with
4 the intent to transport the drug to another site of
5 service for administration;

6 (2) require an enrollee to obtain a covered
7 clinician-administered drug from a pharmacy selected by
8 the health benefit plan or pharmacy benefit manager;

9 (3) notwithstanding any other provision of law, steer
10 or offer financial or other incentives to induce an
11 enrollee to obtain a clinician-administered drug from a
12 pharmacy identified by the health benefit plan or pharmacy
13 benefit manager;

14 (4) condition, deny, restrict, refuse to authorize, or
15 otherwise limit benefits and coverage to an enrollee for
16 medically necessary clinician-administered drugs and
17 related services obtained from the provider that
18 administers the drug or from a pharmacy that is not
19 selected by the health benefit plan or pharmacy benefit
20 manager;

21 (5) condition, deny, restrict, refuse to authorize, or
22 otherwise limit reimbursement to a provider for covered
23 medically necessary clinician-administered drugs and
24 related services obtained from the provider that
25 administers the drug or from a pharmacy that is not
26 selected by the health benefit plan or pharmacy benefit

1 manager;

2 (6) assess higher deductibles, copayments,
3 coinsurance, or other cost-sharing amounts for
4 clinician-administered drugs obtained from the provider
5 that administers the drug or from a pharmacy that is not
6 selected by the health benefit plan or pharmacy benefit
7 manager;

8 (7) require an enrollee to use a home infusion
9 pharmacy to receive clinician-administered drugs in their
10 home or to use a site of service identified by the health
11 benefit plan or pharmacy benefit manager; or

12 (8) include the site of service in prior approval or
13 medical necessity criteria for clinician-administered
14 drugs.

15 (c) A clinician-administered drug shall meet the supply
16 chain security controls and chain of distribution set by the
17 federal Drug Supply Chain Security Act.

18 (d) The Department may adopt rules as necessary to
19 implement the provisions of this Section.

20 Section 30. The Health Maintenance Organization Act is
21 amended by changing Section 5-3 as follows:

22 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

23 Sec. 5-3. Insurance Code provisions.

24 (a) Health Maintenance Organizations shall be subject to

1 the provisions of Sections 133, 134, 136, 137, 139, 140,
2 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153,
3 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2,
4 355.3, 355b, 356g.5-1, 356m, 356q, 356v, 356w, 356x, 356y,
5 356z.2, 356z.4, 356z.4a, 356z.5, 356z.6, 356z.8, 356z.9,
6 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17,
7 356z.18, 356z.19, 356z.21, 356z.22, 356z.25, 356z.26,
8 356z.26a, 356z.29, 356z.30, 356z.30a, 356z.32, 356z.33,
9 356z.35, 356z.36, 356z.40, 356z.41, 356z.43, 356z.46, 356z.47,
10 356z.48, 356z.50, 356z.51, 364, 364.01, 367.2, 367.2-5, 367i,
11 368a, 368b, 368c, 368d, 368e, 370c, 370c.1, 401, 401.1, 402,
12 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c)
13 of subsection (2) of Section 367, and Articles IIA, VIII 1/2,
14 XII, XII 1/2, XIII, XIII 1/2, XXV, XXVI, and XXXIIB of the
15 Illinois Insurance Code.

16 (b) For purposes of the Illinois Insurance Code, except
17 for Sections 444 and 444.1 and Articles XIII and XIII 1/2,
18 Health Maintenance Organizations in the following categories
19 are deemed to be "domestic companies":

20 (1) a corporation authorized under the Dental Service
21 Plan Act or the Voluntary Health Services Plans Act;

22 (2) a corporation organized under the laws of this
23 State; or

24 (3) a corporation organized under the laws of another
25 state, 30% or more of the enrollees of which are residents
26 of this State, except a corporation subject to

1 substantially the same requirements in its state of
2 organization as is a "domestic company" under Article VIII
3 1/2 of the Illinois Insurance Code.

4 (c) In considering the merger, consolidation, or other
5 acquisition of control of a Health Maintenance Organization
6 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

7 (1) the Director shall give primary consideration to
8 the continuation of benefits to enrollees and the
9 financial conditions of the acquired Health Maintenance
10 Organization after the merger, consolidation, or other
11 acquisition of control takes effect;

12 (2) (i) the criteria specified in subsection (1) (b) of
13 Section 131.8 of the Illinois Insurance Code shall not
14 apply and (ii) the Director, in making his determination
15 with respect to the merger, consolidation, or other
16 acquisition of control, need not take into account the
17 effect on competition of the merger, consolidation, or
18 other acquisition of control;

19 (3) the Director shall have the power to require the
20 following information:

21 (A) certification by an independent actuary of the
22 adequacy of the reserves of the Health Maintenance
23 Organization sought to be acquired;

24 (B) pro forma financial statements reflecting the
25 combined balance sheets of the acquiring company and
26 the Health Maintenance Organization sought to be

1 acquired as of the end of the preceding year and as of
2 a date 90 days prior to the acquisition, as well as pro
3 forma financial statements reflecting projected
4 combined operation for a period of 2 years;

5 (C) a pro forma business plan detailing an
6 acquiring party's plans with respect to the operation
7 of the Health Maintenance Organization sought to be
8 acquired for a period of not less than 3 years; and

9 (D) such other information as the Director shall
10 require.

11 (d) The provisions of Article VIII 1/2 of the Illinois
12 Insurance Code and this Section 5-3 shall apply to the sale by
13 any health maintenance organization of greater than 10% of its
14 enrollee population (including without limitation the health
15 maintenance organization's right, title, and interest in and
16 to its health care certificates).

17 (e) In considering any management contract or service
18 agreement subject to Section 141.1 of the Illinois Insurance
19 Code, the Director (i) shall, in addition to the criteria
20 specified in Section 141.2 of the Illinois Insurance Code,
21 take into account the effect of the management contract or
22 service agreement on the continuation of benefits to enrollees
23 and the financial condition of the health maintenance
24 organization to be managed or serviced, and (ii) need not take
25 into account the effect of the management contract or service
26 agreement on competition.

1 (f) Except for small employer groups as defined in the
2 Small Employer Rating, Renewability and Portability Health
3 Insurance Act and except for medicare supplement policies as
4 defined in Section 363 of the Illinois Insurance Code, a
5 Health Maintenance Organization may by contract agree with a
6 group or other enrollment unit to effect refunds or charge
7 additional premiums under the following terms and conditions:

8 (i) the amount of, and other terms and conditions with
9 respect to, the refund or additional premium are set forth
10 in the group or enrollment unit contract agreed in advance
11 of the period for which a refund is to be paid or
12 additional premium is to be charged (which period shall
13 not be less than one year); and

14 (ii) the amount of the refund or additional premium
15 shall not exceed 20% of the Health Maintenance
16 Organization's profitable or unprofitable experience with
17 respect to the group or other enrollment unit for the
18 period (and, for purposes of a refund or additional
19 premium, the profitable or unprofitable experience shall
20 be calculated taking into account a pro rata share of the
21 Health Maintenance Organization's administrative and
22 marketing expenses, but shall not include any refund to be
23 made or additional premium to be paid pursuant to this
24 subsection (f)). The Health Maintenance Organization and
25 the group or enrollment unit may agree that the profitable
26 or unprofitable experience may be calculated taking into

1 account the refund period and the immediately preceding 2
2 plan years.

3 The Health Maintenance Organization shall include a
4 statement in the evidence of coverage issued to each enrollee
5 describing the possibility of a refund or additional premium,
6 and upon request of any group or enrollment unit, provide to
7 the group or enrollment unit a description of the method used
8 to calculate (1) the Health Maintenance Organization's
9 profitable experience with respect to the group or enrollment
10 unit and the resulting refund to the group or enrollment unit
11 or (2) the Health Maintenance Organization's unprofitable
12 experience with respect to the group or enrollment unit and
13 the resulting additional premium to be paid by the group or
14 enrollment unit.

15 In no event shall the Illinois Health Maintenance
16 Organization Guaranty Association be liable to pay any
17 contractual obligation of an insolvent organization to pay any
18 refund authorized under this Section.

19 (g) Rulemaking authority to implement Public Act 95-1045,
20 if any, is conditioned on the rules being adopted in
21 accordance with all provisions of the Illinois Administrative
22 Procedure Act and all rules and procedures of the Joint
23 Committee on Administrative Rules; any purported rule not so
24 adopted, for whatever reason, is unauthorized.

25 (Source: P.A. 101-13, eff. 6-12-19; 101-81, eff. 7-12-19;
26 101-281, eff. 1-1-20; 101-371, eff. 1-1-20; 101-393, eff.

1 1-1-20; 101-452, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625,
2 eff. 1-1-21; 102-30, eff. 1-1-22; 102-34, eff. 6-25-21;
3 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-443, eff.
4 1-1-22; 102-589, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665,
5 eff. 10-8-21; revised 10-27-21.)

6 Section 35. The Voluntary Health Services Plans Act is
7 amended by changing Section 10 as follows:

8 (215 ILCS 165/10) (from Ch. 32, par. 604)

9 Sec. 10. Application of Insurance Code provisions. Health
10 services plan corporations and all persons interested therein
11 or dealing therewith shall be subject to the provisions of
12 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
13 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b,
14 356g, 356g.5, 356g.5-1, 356q, 356r, 356t, 356u, 356v, 356w,
15 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.4a, 356z.5, 356z.6,
16 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14,
17 356z.15, 356z.18, 356z.19, 356z.21, 356z.22, 356z.25, 356z.26,
18 356z.26a, 356z.29, 356z.30, 356z.30a, 356z.32, 356z.33,
19 356z.40, 356z.41, 356z.46, 356z.47, 356z.51, ~~356z.43~~, 364.01,
20 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412,
21 and paragraphs (7) and (15) of Section 367 of the Illinois
22 Insurance Code.

23 Rulemaking authority to implement Public Act 95-1045, if
24 any, is conditioned on the rules being adopted in accordance

1 with all provisions of the Illinois Administrative Procedure
2 Act and all rules and procedures of the Joint Committee on
3 Administrative Rules; any purported rule not so adopted, for
4 whatever reason, is unauthorized.

5 (Source: P.A. 101-13, eff. 6-12-19; 101-81, eff. 7-12-19;
6 101-281, eff. 1-1-20; 101-393, eff. 1-1-20; 101-625, eff.
7 1-1-21; 102-30, eff. 1-1-22; 102-203, eff. 1-1-22; 102-306,
8 eff. 1-1-22; 102-642, eff. 1-1-22; 102-665, eff. 10-8-21;
9 revised 10-27-21.)